IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1972 OF 1995

M and N. Publications Ltd. ..Petitioner
Vs.
The Trustees of the Port of Bombay ..Respondent

Mr.R.S.Mehta i/b. Mr.S.P.Bharti for the Petitioner.
Mr.U.J.Makhija with Mr.N.P.Lashkari i/b. Mulla &
Mulla for the Respondent.

CORAM :- DR.S.RADHAKRISHNAN &
V.K.TAHILRAMANI, JJ.
DATE : 15TH NOVEMBER, 2006

P.C.

1. In the above, the Petitioner has submitted that the Bill of entry for home consumption has been filed on 20th September,1994 with regard to the various quantities of paper imported by the Petitioner. It appears that on 22nd September,1994 the ship carrying consignment of telephone directory papers had arrived at Bombay Port and it was unloaded on 26th September,1994.

2. It is an admitted position that between 23rd September,1994 to 1st October,1994 the Customs Appraiser and examining staff went on strike and as such, the goods could not be cleared as the assessment work was not completed. There is also no dispute that on 2nd October,1994 as it was Sunday and as such no assessment work was carried out by the Customs.

3. Under the aforesaid facts and circumstances of the case, we direct the Bombay Port Authorities to take a note that from 26th September,1994 to 2nd

October,1994 the goods could not have been cleared at all. Under these circumstances, only from 3rd October,1994, the Petitioner could have initiated the steps to clear the goods.

4. Having regard to the aforesaid facts and circumstances of the case, we remand back the matter to the Bombay Port Authorities to determine the proper demurrage charges having regard to the fact that only from 3rd October,1994, the Petitioner could have moved for assessment before the Customs Authorities. Accordingly, Rule is made absolute whereby the Respondent Bombay Port Authorities are directed to decide afresh the demurrage charges taking into account all the aforesaid facts and circumstances of the case. The Petitioner will be afforded a personal opportunity of hearing in the above and also will be entitled to refer the relevant records. The Bombay Port Authority can fix the fresh demurrage charges within a period of 12 weeks from the date the Petitioner furnishes a certified copy of this order alongwith the application for fixation of fresh demurrage charges. Rule is accordingly made absolute.

Issuance of certified copy is expedited.

(DR.S.RADHAKRISHNAN,J.)

(V.K.TAHILRAMANI,J.)